IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 1085 OF 2004

M/s.Precious Electric Co. .. Appellant

versus

State of Maharashtra & Anr. .. Respondents

...

Mr.K.N. Shriyan for the appellant.

Mr.A.M. Shringarpure for the respondent.

CORAM : V.M. KANADE, J

DATED : 30th September 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the appellant.

2. The appellant is challenging the order passed by Metropolitan Magistrate, 33rd Court, Mumbai dated 4th March 2004. By the said order, the learned Magistrate has dismissed the complaint for want of prosecution. No reasons have been given in the said

order. It is clearly stated that the complainant and his Advocate have remained absent. The respondent has been served. None appears on behalf of the respondent though he is served.

3. It is submitted that the appellant was not informed about the date by his Advocate. Though he had repeatedly made enquiries from time to time. Further, the bailable warrant was issued against the accused the said warrant had returned unserved on number of dates and therefore, his Advocate informed him that as and when the warrant is executed, he would inform him the date. In my view, this is a sufficient cause given by the appellant for remaining absent on the said date. The impugned order is therefore,set aside.

4. The complaint is restored. The Metropolitan Magistrate to decide the complaint as expeditiously as possible.

5. Criminal Appeal is allowed in the above terms.

Certified copy expedited.

V.M. KANADE, J